IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO: 4832 of 2004

Between:

1 S.Subbaramaiah S/o.Thimmaiah
2 G.Chandra Sekhar S/o.Hanumanthappa
3 K.Murugan S/o.Chinnabba
4 Y.Yellamma W/o.Y.Gurappa
5 P.Gurappa s/o.Rama Swamy
6 N.Omprakash S/o.Gopalaiah
(All are R/o.Foot Path way to Tirumala at Gali Gopuram Chittoor District.

.... PETITIONERS

AND

1 Tirumala Tirupathi Devasthnams, rep.by its Executive Officer

Tirupathi.
2 Vigilance and Security Officer, Tirumala Tirupathi Devasthnams,

Tirumala, Tirupathi.
3 Deputy Conservator of Forests, Tirumala Tirupathi Devasthnams,

Tirumala, Tirupathi.
4 Gali Gopuram Math @ Vaikunta Koil, rep.by its Fit Person Chinna

Bazar Street, Tirupathi.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction declaring the action of the respondents 1 to 3 and their subordinates in trying to dispossess the petitioners from their respective shops situated on the Foot Path way to Tirumala at Gali Gopuram as illegal, arbitrary, unconstitutional and vitiated by malafides and consequently direct the respondents, their subordinates and any one claiming through them not to dispossess the petitioners from their respective shops and pass such other order or orders as may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.P.GOVIND REDDY

Counsel for the Respondent No.1to 3: MR.M.ADINARAYANA RAJU

Counsel for Respondent No.4: MR.V.VENUGOPALA RAO

The Court made the following:

ORDER: -

Heard both the learned counsel and at their request the writ petition is taken up for disposal.

Petitioners herein claiming to be the lessees under fourth respondent filed this writ petition, inter alia, seeking writ of Mandamus against the respondents herein challenging their action in trying to dispossess them from their respective shops on the foot-path way to Tirumala at Gali Gopuram, Tirupathi as arbitrary and illegal.

The case of the petitioners is that though they are lessees of fourth respondent, however, the respondents are illegally trying to dispossess them. It is their case that they are valid tenants and they are paying rents regularly as on today. Therefore, the respondents are not entitled to evict them illegally.

In the counter-affidavit filed by the contesting respondents, it is stated that the petitioners had, in fact, filed O.S.No.142 of 1998 on the file of I Additional Junior Civil Judge, Tirupathi for injunction against respondents 1 to 3 herein and subsequently fourth respondent was added as party and thereafter, the suit was dismissed on 20-2-2004 after regular trial. Against the said order of dismissal, the petitioners filed regular appeal in A.S.No.16 of 2004 on the file of IV Additional

District Judge, Tirupathi and the same is pending. It is the further case of the respondents that the factual of filing civil suit has been suppressed by the petitioners and filed this writ petition and obtained interim orders from this Court.

Having heard the submissions made on either side and on perusal of the material on record, it is seen that the petitioners in fact had approached the civil Court by filing suit and having lost the suit, they preferred appeal before the IV Additional District Judge, Tirupathi, which is pending. The very factum of filing civil suit is suppressed by them and they obtained interim orders from this Court and the said fact was brought to the notice of this Court by the respondents by filing counter-affidavit. Further, it seems that the petitioners could not obtain interim orders pending appeal before the lower Appellate Court and therefore, they filed this writ petition and obtained interim orders. Having regard to the same, it is a clear fit case of abuse of process taken recourse by the petitioners. Therefore, the petitioners cannot seek any indulgence especially under Article 226 of the Constitution of India. Hence, I do not find any ground to entertain this writ petition or to show any indulgence in favour of the petitioners in granting any relief.

Accordingly, this writ petition is dismissed. No costs.

Sd/-

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Executive Officer, Tirumala Tirupathi Devasthnams, Tirupathi.
2 The Vigilance and Security Officer, Tirumala Tirupathi

Devasthnams, Tirumala, Tirupathi.
3 Deputy Conservator of Forests, Tirumala Tirupathi Devasthnams,

Tirumala, Tirupathi.

Stv/Rar